



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCL, FF

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution, made on November 20, 2018 (the "Application"). The Landlord applied for the following relief, pursuant to the *Manufactured Home Park Tenancy Act* (the "Act"):

- a monetary order for damage or compensation; and
- an order granting recovery of the filing fee.

The Landlord and the Tenants attended the hearing and provided affirmed testimony. The Landlord testified that he served the Tenants with the Application package and documentary evidence in person on November 22, 2018. The Tenants confirmed receipt. The Tenants testified that they served their documentary evidence to the Landlord in person on March 7, 2019. The Landlord confirmed receipt. Pursuant to section 88 and 89 of the *Act*, I find the above documents were sufficiently served for the purposes of the *Act*.

The parties were given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary Issues

The Landlord submitted an amendment to his Application on November 27, 2018 seeking an order that the Tenants remove extra vehicles on the rental property that are in excess of the supplemental agreement which had permitted extra vehicles at a cost of \$25.00 per vehicle. Seeing as this was a term of the agreement, I find that I am not at

liberty to change terms of an agreement between parties, therefore I dismiss this portion of the Landlord's Application without leave to reapply.

At the start of the hearing, the Landlord indicated that he wished to change the amount sought on his monetary worksheet from \$250.00 to \$225.00 as the Tenants had paid a portion of the parking fee for March 2019.

Issue(s) to be Decided

1. Is the Landlord entitled to a monetary order for compensation relating to unpaid parking fees, pursuant to Section 60 of the *Act*?
2. Is the Landlord entitled to the recovery of the filing fee, pursuant to Section 65 of the *Act*?

Background and Evidence

The parties testified and agreed to the following; the tenancy began on July 7, 2014. Currently rent in the amount of \$376.00 is paid to the Landlord each month. The tenants did not pay a security deposit.

The parties agreed that they entered into a supplemental agreement on November 1, 2015, which set out conditions surrounding what is permitted to be stored on the rental property and what is considered to be additional parking at a cost of \$25.00 per vehicle.

The Landlord is seeking a monetary compensation in the amount of \$225.00 in relation to unpaid parking fees. The Landlord testified that the tenants have been parking a car and a trailer which are considered additional to what the agreement permits. As such, the Tenants were required to pay the Landlord \$50.00 each month in parking fees. The Landlord stated that he received no payment in September and October 2018. The Landlord stated that the Tenants only paid \$25.00 of the \$50.00 owed from November 2018 to March 2019. The Landlord confirms that currently the outstanding balance owing is \$225.00.

In response, the Tenants testified that they agree that they should pay the parking fee for the additional trailer, however, seeing as the extra car is used daily, it should not be considered extra.

The Landlord indicated that the Tenants have several other vehicles and trailers on the rental property that are considered included in the rent. The Landlord stated that the Tenants can remove one of their other vehicles and replace it with the car they drive daily, at no additional charge. The Landlord indicates that the number of vehicles and trailer on the rental property is excessive and causing the neighbours to complain.

Analysis

Based on the affirmed oral testimony and documentary evidence, and on a balance of probabilities, I find:

Section 60 of the *Act* empowers me to order one party to pay compensation to the other if damage or loss results from a party not complying with the *Act*, regulations or a tenancy agreement.

A party that makes an application for monetary compensation against another party has the burden to prove their claim. The burden of proof is based on the balance of probabilities. Awards for compensation are provided for in section 60 of the *Act*. Pursuant to Residential Tenancy Policy Guideline #16 an applicant must prove the following:

1. That the other party violated the *Act*, regulations, or tenancy agreement;
2. That the violation caused the party making the application to incur damages or loss as a result of the violation;
3. The value of the loss; and
4. That the party making the application did what was reasonable to minimize the damage or loss.

In this case, the burden of proof is on the Landlord to prove the existence of the damage or loss, and that it stemmed directly from a violation of the *Act*, regulation, or tenancy agreement on the part of the Tenants. Once that has been established, the Landlord must then provide evidence that can verify the value of the loss or damage. Finally it must be proven that the Landlord did what was reasonable to minimize the damage or losses that were incurred.

The Landlord is seeking a monetary order in the amount of \$225.00 relating to outstanding parking fees. I accept that the parties made an agreement on November 1, 2015 outlining the number of vehicles permitted on the rental site and what would be considered additional vehicles at a cost of \$25.00 per vehicle.

I find that the Tenants' car and trailer parked on or around the rental unit site has surpassed the amount of vehicles permitted on the rental property as per the agreement between the parties. As such, I find that the Landlord is entitled to charge the Tenants a \$25.00 parking fee per additional vehicle, according to their agreement.

The parties agreed that the Tenants have not paid their parking fees in full for the additional car and trailer. I find that the Landlord had established an entitlement to recover the \$225.00 in unpaid parking fees.

Having been successful, I also find the Landlord is entitled to recover the \$100.00 filing fee paid to make the Application.

Pursuant to section 67 of the Act, I find the Landlord is entitled to a monetary order in the amount of \$325.00,

Conclusion

The Tenants have not paid the parking fees in full. The Landlord is granted a monetary order in the amount of \$325.00. This order must be served on the Tenants as soon as possible. If the Tenant fails to comply the monetary order it may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Manufactured Home Park Tenancy Act*.

Dated: April 1, 2019

Residential Tenancy Branch